

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-10

May 16, 2000

Central Maine Power Company
Standard Rates for Energy and
Capacity Purchases

ORDER ON PETITION
FOR RECONSIDERATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

On April 18, 2000, the Independent Energy Producers of Maine (IEPM) and CMS Generation (collectively Petitioners) filed a Petition for Reconsideration of our March 28, 2000 Order establishing Short Term Energy Only (STEO) rates and rates for Energy and Capacity.¹ Petitioners argue that the STEO rate of 2.84 cents per kWh, which represents the highest stand-alone bid in the Chapter 307 auction, is inconsistent with the language of the Restructuring Act because the historic, current and projected ISO spot market energy clearing prices are higher than 2.84 cents per kWh. In addition, Petitioners argue that they have reserved the right to object in a future case to the energy and capacity rate of 2.84 cents per kWh. For the reasons stated below and in our original Order we deny the Petition for Reconsideration with respect to the establishment of the STEO rate. As discussed below, we clarify that our establishment of an energy and capacity rate here does not address whether this rate is applicable to certain contracts. We further clarify, on our own motion, that the energy and capacity rate of 2.84 cents per kWh is in effect through February 28, 2002.

II. STEO RATE

In requesting reconsideration of the Commission's establishment of the STEO rate at 2.84 cents per kWh, Petitioners reiterate their claim that the STEO rate must reflect historic, current or projected ISO energy clearing prices. We rejected this proposition in our original Order.² In short, we reiterate the conclusion in our original Order that the Petitioners' evidence of various past, current and projected ISO energy clearing prices simply does not provide a basis for rejecting the highest bid for energy actually offered in the QF auction.

¹ By Procedural Order, the deadline for Commission action on the Petition for Reconsideration was extended until May 16, 2000.

²We further note that during oral exceptions, the IEPM declined to provide any specific information about the price for energy received by IEPM members in bilateral transactions even though the Commissioners indicated that such information would likely be of greater probative value than spot market energy prices.

III. CAPACITY AND ENERGY RATE

Our March 28, 2000 Order also set the capacity and energy rate as required by Chapter 360. The Order rejected CMP's initial proposal that the capacity and energy rate established pursuant to Chapter 360 should be the winning Chapter 307 bid.³ Instead we set the energy and capacity rate at the highest stand-alone bid of 2.84 cents per kWh.

CMP's filing, the Commission's Notice of Proceeding and the Procedural Order outlining issues to be addressed in briefs all indicated that this proceeding would result in the setting of rates for energy and capacity, as well as STEO. The Petitioners, however, did not state any position on this issue until oral exceptions to the Examiner's Report. At oral exceptions, Petitioners indicated that they did not intend to waive any right they might have to argue that the 2.84 cents per kWh rate should not be applicable to certain contracts. We clarify that, for the purpose of this case, we simply establish the rate for energy and capacity at 2.84 cents per kWh. See Chapter 360 § (C)(3)(d)(i). We make no determination here about the applicability of this rate to certain contracts. In this regard, we also clarify, on our own motion, that Chapter 360 requires that the rates for capacity and energy begin March 1 and continue until the end of the sale period applicable to the QF auction. Thus, the energy and capacity rate of 2.84 cents per kWh is in effect through February 28, 2002.

Dated at Augusta, Maine, this 16th day of May, 2000.

BY ORDER OF THE COMMISSION

Raymond Robichaud
Acting Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

³As discussed in the March 28, 2000 Order, the winning bid was linked to a standard offer bid.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.